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08 June 2004
HUESCHEN AND SAGE

Michael M. Cus
Dated: 08 June 2004

SERVIER 412

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Serial No. : 10/689,394

Filed : October 20, 2003

Title : IMIDAZOLINE COMPOUNDS

Art Unit : 1626

Examiner : Golam M. SHAMEEM, Esq.

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Honorable Commissioner of Patents and Trademarks
Alexandria, VA 22313

RESPONSE AND ELECTION UNDER 37 CFR §§ 1.111 AND 1.142

Sir:

Responsive to the Office Action, a Restriction Requirement, dated May 14, 2004, it is the position of the Office that the application pertains to a plurality of patentably distinct inventions. The applicants *traverse* this conclusion on the grounds that a chemist would not find the instant invention to involve structurally distinct inventions. Moreover, the applicants assert that Group II is part of the claimed invention. Restriction Group I is drawn to substances, an important characteristic of which substances is their pharmacological activity.

Such activity is claimed in the form of method claims. Therefore, the restriction of the instant invention into a group directed to the substance and another group directed to the method or pharmacological characteristic of the substance is without basis.

None-the-less, in an effort to advance the prosecution of the instant application, the applicants elect ***with traverse*** to prosecute the compounds of Group I of the Restriction Requirement. Applicants designate the species of Example 6, 2-[cyclohexyl(3-thienyl)methyl]-4-methyl-4,5-dihydro-1*H*-imidazole, as representative of Group I. Moreover, the applicants respectfully request that the Examiner include at least one method of treatment claim from Group II for simultaneous prosecution with the substance claims of Group I. The applicants hereby designate the claim to treatment of *pathologies associated with non-insulin dependent type II diabetes* for such examination.

Alternatively, the Examiner may withdraw all non-elected claims of Group II without prejudice to their rejoinder during later examination and/or prosecution in a Divisional Application under MPEP § 821.04.

Accordingly, entry of the present Election into the record of this application, and favorable action on the merits thereof, are respectfully solicited.

Respectfully submitted,

THE FIRM OF HUESCHEN AND SAGE

By: 
G. PATRICK SAGE

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